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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 12th May 2008

No.5516-1i/1(B)-83/2006/LE.— In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award dated the 28th April, 2008 in Industrial Dispute Case No.8/2006 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of M/s. Orissa Confectionary (P) Limited, Phase-III, New Industrial Estate, Jagatpur, Cuttack and its workmen Shri Khirod Ch. Lenka and 10 others represented through General Secretary, Jagatpur Industrial Workers Union, Gosala Road, Cuttack was referred for adjudication is hereby published as in the scheduled below:—

SCHEDULE

INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO.8/2006

The 28th April, 2008

Present : Shri Srikanta Nayak, O.S.J.S. (Sr. Branch),
Presiding Officer,
Industrial Tribunal,
Bhubaneswar

Between: The Management of
M/s. Orissa Confectionary (P) Ltd.,
Phase-III, New Industrial Estate,
Jagatpur, Cuttack .. First-Party—Management
And
Their workmen Shri Khirod Ch. Lenka
and 10 others represented through
General Secretary,
Jagatpur Industrial Workers Union,
Gosala Road, Cuttack .. Second-Party—Workmen

Appearances : None

.. For the First-Party—Management

Shri S.N. Biswal,
General Secretary of Union

.. For the Second-Party —Workmen

AWARD

The Government of Orissa in the Labour & Employment Department, in exercise of powers conferred upon them by sub-section (5) of Section 12 read with Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. 9761-II/1(B)/83/2006/LE., dated the 6th November, 2006 :—

“Whether the termination of services of S/Shri Khirod Chandra Lenka, Suresh Chandra Behera, Pravat Behera, Prafulla Sahoo, Mohan Sahoo, Gouranga Parida, Kishore Ch. Bisoi, Dibakar Sethy, Ramesh Nayak and Balaji Kandy with effect from 2nd August 2004 and Saroj Kumar Sahoo with effect from 9th August 2004 by the employer Orissa Confectionery (P) Ltd., Phase-III, NIE, Jagatpur, Cuttack is legal and or justified ? If not, what relief they are entitled to ?”

2. The case of the Second Party (hereinafter referred to as the ‘workman’) is that they were all working under the First Party Management and were receiving their salary at the end of each month. Despite request by the workmen, the Management did not implement the minium wages as notified by the Government and took it otherwise and bore a grudge against the workmen. Some of the workmen were also covered under the E.S.I. and E.P.F. Schemes. It is asserted that all of them had performed their duties till 31st July 2004 continuously except Shri Saroj Kumar Sahoo, who performed his duties upto 8th August 2004. On 2nd March 2004 when they went to perform their duties, the Management did not allow their entry into the Factory premises and refused them employment but Shri Saroj Kumar Sahoo, performed his duty upto 8th August 2004 and

he was refused employment with effect from 9th August 2004, although Junior employees were allowed to work. Before termination neither any charges were framed nor any enquiry was conducted and they were neither served with any notice nor paid notice pay and compensation. In the establishment of the Management more than 100 workmen were employed and as such it was incumbent upon the Management to comply the provisions of Section 25-N of the Industrial Disputes Act, which it has not complied. Being disappointed, they approached the Jagatpur Industrial Workers' Union, which raised an Industrial Dispute and on failure of the conciliation, the matter was referred to this Tribunal for adjudication.

The workmen have claimed reinstatement in service with full back wages.

3. Despite notice, the Management did not appear nor filed its written statement. On the date of hearing also the Management remained absent and did not take any step for which it was set *ex parte* vide Order No. 15, dated the 11th April 2008.

4. The Second Party examined one witness on their behalf, who deposed that due to non-implementation of the minimum wages when the workers raised their voice the Management annoyed with them and refused employment to the employees on 2nd August 2004 and again on 9th August 2004. He proved Ext. 1, the petition addressed to the Management, Ext.2, the copy of the letter addressed to the District Labour Officer; Exts. 3, 3/1 and 3/2, the Employees State Insurance Cards, Exts. 4, 4/1 and 4/2, the Employees Provident Fund receipt, Exts. 3 and Exts. 4 series show that the workmen were working with the Management and for that they had contributed towards E.P.F. and E.S.I. It is in the evidence of W.W. No.1 that there was no allegation against the workers and no notice/notice pay and compensation were paid to them before termination of their services. He also deposed that after termination of services of the workmen, other persons are employed to run the factory.

5. In view of the unchallenged evidence of W.W. No. 1, I am constrained to hold that the termination of services of the Second Party Workmen with effect from 2nd August 2004 and with effect from 9th August 2004 in respect of workmen Shri Saroj Kumar Sahoo, by the First Party Management is neither legal nor justified and they are entitled for reinstatement in service with full back wages.

Dictated and Corrected by me

Srikanta Nayak
dt. 28-04-2008
Presiding Officer,
Industrial Tribunal,
Bhubaneswar.

Srikanta Nayak
dt. 28-04-2008
Presiding Officer,
Industrial Tribunal,
Bhubaneswar.

By order of the Governor
G. JENA
Deputy Secretary to Government
